

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**WILLIAM ACTKINS, et al.,  
Plaintiffs,**

**v.**

**Case No. 07C0590**

**JOHN HELDING, et al.,  
Defendants.**

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**ORDER**

Plaintiffs brought this action alleging racial discrimination and retaliation in violation of 42 U.S.C. § 1981 in a situation arising out of a written contract between plaintiffs and defendants involving a real estate development project. Before me now are plaintiff's motion to amend the complaint and a motion by Attorney Thomas Hofbauer, of McCoy & Hofbauer, S.C., to withdraw as counsel for the defendants.

Regarding plaintiff's motion to amend, plaintiffs seek to add a claim under 42 U.S.C. § 1982 for interference with plaintiffs' rights to lease, sell, hold and convey real property because of unlawful racial discrimination and retaliation. Federal Rule of Civil Procedure 15(a)(2) provides that when leave of the court is required to amend a pleading, such leave shall be freely given as justice requires. In this case, none of the current parties to this action have objected to the motion to amend the complaint, and I will grant this motion.

As to Attorney Hofbauer's motion to withdraw as counsel, he states that he and his firm were retained by Rural Mutual Insurance Company for the purpose of representing defendants on the merits of this action on the assumption that Rural Mutual Insurance Company had a duty to defend this action. However, on July 3, 2008, I found that Rural

Mutual had no duty to defend and therefore dismissed it from this action. As such, Attorney Hofbauer and his firm seek to withdraw as counsel for defendants. Attorney Hofbauer further notes that defendants are still represented by Attorney Thomas Binger. No party has objected to this motion. I will therefore grant the motion to withdraw as counsel.

**Therefore,**

**IT IS ORDERED** that plaintiffs' motion to amend the complaint is **GRANTED**.

**IT IS FURTHER ORDERED** that McCoy & Hofbauer's motion to withdraw as counsel, filed by Attorney Thomas Hofbauer, is **GRANTED**.

Dated at Milwaukee, Wisconsin this 12 day of December, 2008.

/s

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LYNN ADELMAN  
District Judge